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No. 09-

IN THE
SUPREME COURT OF THE UNITED STATES

KYUNG SUH KIM, et al.,

Petitioners,

v.

SYNOD OF SOUTHERN CALIFORNIA
AND HAWAII, et al.,

Respondents.

On Petition for Writ of Certiorari
To the California Court of Appeal,
Second District, Division Three

PETITION FOR WRIT OF CERTIORARI

LAW OFFICES OF
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QUESTIONS PRESENTED

California Corporations Code Section 9142(c) states that, "No assets of a religious corporation shall be deemed to be impressed with any trust. . . . unless . . the governing instruments of a superior religious body or general church of which the corporation is a member, so expressly provide."

Section 9142(c) has been construed as requiring that a longstanding independent local church, which affiliates briefly with a national church, forfeit all its real and personal property as the price to withdraw from that short affiliation with the national church.

1. Does California Corporations Code 9142(c), as construed and applied by the California Supreme Court,

unconstitutionally burden freedom of worship and association in violation of the First Amendment to the United States Constitution?

2. Whether deference to a national denomination's finding of a "schism" or "true church" should be limited to a religious determination and not be adopted by the courts to resolve property ownership disputes.

28 U.S.C. Section 2403 (d) Notice

28 U.S.C. Section 2403 (d) may apply in this case.

PARTIES TO THE PROCEEDINGS

Petitioners are Korean Hope Christian Church, a California non-profit corporation; Kyung Suh Kim, Bong Kuck Cha, Jong Min Tae, Chung Yoll Kim and Chung Sook Kim, individuals.

Respondents are Synod of Southern California and Hawaii, a non-profit California corporation; Presbytery of Hanmi, a California non-profit corporation; Korean Hope Christian Church, a California non-profit corporation, and Mark Hong, an individual.

Intervenors are Danny Cho and Younghee Cho.

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PETITION FOR WRIT OF CERTIORARI

Petitioners, Korean Hope Christian Church, Kyung Suh Kim, Bong Duck Cha, Jong Min Tae, Chun Yoll Kim, and Chung Sook Kim (hereinafter, "Kyung Suh Kim, et al.") respectfully petition for a Writ of Certiorari to review the judgment of the California Court of Appeal, Second District, Division Three.

OPINIONS BELOW

The California Court of Appeal's decision is reprinted in the Appendix to the Petition ("App.") at 1-43. The California Supreme Court order dismissing the Petition for Review appears in the App. at 44.

JURISDICTION

The California Court of Appeal issued its decision on August 19, 2008. On November 28, 2008, Petitioners, Kyung Suh Kim, et al., filed a timely Petition for Review. The California Supreme Court granted, held in abeyance, and then dismissed the Petition for Review on March 11, 2009 after it decided the *Episcopal Church Cases*, 45 Cal.4th 467 (2009). This Court has jurisdiction under 28 U.S.C. Section 1257.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This Petition concerns the following constitutional and statutory provisions:

1. The First Amendment to the United States Constitution provides, in part, that: "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof. . ."

2. The Fourteenth Amendment to the United States Constitution provides, in part that: "[N]o State shall . . deny to any person within its jurisdiction the equal protection of laws."

3. California Corporations Code Section 9142 provides in part as follows:

(c) No assets of a religious corporation are or shall be deemed to be impressed with any trust, express or implied, statutory or common law unless one of the following applies:

(1) Unless and only to the extent that, the assets were received by the corporation with an express commitment by resolution of its board of directors to so hold those assets in trust;

(2) Unless, and only to the extent that, the articles or bylaws of the corporation, or the governing instruments of a **superior religious body or general church** of which the corporation is a member so expressly provide.

(3) Unless, and only to the extent that, the donor expressly imposed a trust, in writing, at the time of the gift or donation.

STATEMENT OF THE CASE

This case presents an important religious and property rights issue: the intersection of the First Amendment and Section 9142(c) of the California Corporations Code. Section 9142(c) has been construed as requiring that a longstanding independent local church, which affiliated briefly with a national church, forfeit all real and personal property as the price of withdrawing from the relationship with the national church.

By imposing such harsh penalties upon a local church that desires to worship independently, Section 9142(c)--as applied by the California Supreme Court--unconstitutionally burdens freedom of worship and association in violation of the First Amendment to the United States Constitution.

The independent local church is Hope Church. The name "Hope" was symbolic of the dreams and common goals of the first generation immigrant congregation -- to bridge the cultural gap and ease the transition of assimilating into mainstream America by having a "piece of soil" to seek refuge and claim as their own. From the beginning of its existence, Hope Church held record title to the property in question and remained independent.

Hope Church was built as a safe haven for its members. Elderly members willed their assets to Hope Church. Other members sold their land and homes from overseas, and donated the proceeds. The working class – janitors, fish factory workers, sewing machine operators, dry cleaner and grocery store owners – tithed their income and pledged their capital to Hope Church.

Over the years, Hope Church purchased additional parcels of property in its own name, with funds donated exclusively by its members.

In 1995, Hope Church affiliated briefly with a national church. In 2003, when Hope Church withdrew from the national church, congregant members found themselves embroiled in a lawsuit filed by the national church claiming ownership of the church property, even though Hope Church owned that property before the brief affiliation with the national church.

INTRODUCTION

1. History of Presbyterian Church (U.S.A)

The Presbyterian Church (U.S.A.) ("PCUSA") is a body of reformed Christians who conduct their religious activities in conformity with, The Constitution of the Presbyterian Church (U.S.A.) (the "PCUSA Constitution). A portion of that PCUSA Constitution is called the Book of Order ("Book of Order") which sets forth the doctrine and disciplines of PCUSA. Reporter's Transcript (R.T.) 14. Under the Book of Order Section G-8.0201, "[a]ll property held by or for a particular church . . . is held in trust . . . for the use and benefit of the Presbyterian Church (U.S.A.)". (R.T. 15-18; Ex. 1, pp. 1-035).

Historically, PCUSA developed property for future church sites (including carrying costs such as property taxes), financed the cost of obtaining and developing property and held real property for development. Upon establishment, the local church undertook the responsibility of repaying the funds

and/or became eligible for a mortgage grant of all or a portion of the property acquisition costs. Trial Record, Exhibit 28, pg. 24. (T.R., Ex. 28, p. 24). PCUSA would enter into joint ventures to acquire and improve property and title to the real property would be held by the PCUSA. (T.R. Ex. 28, p. 24). Investment income, rental income, grants, payments made for ministries were classified under the title "Church development Fund" in the annual certified financial statements of the Synod of Southern California and Hawaii, Presbyterian Church (U.S.A.) (T.R. Ex. 28-43). Further, expenses such as salary, housing, automobile expense, study leave allowance, and full pension/ medical expenses of the minister called to serve the local church were paid for by the general church. (T.R. Ex.7).

2. Creation of Hanmi Presbytery/Korean language churches by the Presbyterian Church (U.S.A.)

In 1984, the Korean language churches first arrived within the PCUSA structure through the creation of the Presbytery of Hanmi of the Synod of Southern California and Hawaii (Hanmi Presbytery). (T.R.Ex.19, p. 1). The Hanmi Presbytery, which Hope Church joined, was unique as it was classified as a temporary, non-geographical presbytery organized for the purpose of assisting the Presbyterian churches in its mission and ministry with Korean immigrants. (R.T. 10, 1850).

PCUSA was well aware of the uniqueness of the Korean language churches. PCUSA viewed the Korean churches as problematic since the pastors spoke no English and had no comprehension whatsoever of the basic church polity and the hierarchical structure, as

documented in the Synod of Southern California council meeting minutes dated February 13, 1999. (T.R, Ex. 27). Specifically, "an undertaking was made by the Synod Council "to engage, . . . consultants in the Korean language, Korean culture, parliamentary law and other experts." (R.T. 27. Ex.27).

The PCUSA was unable to speak to members of the Hanmi Presbytery without the assistance of outside translators. (R.T. Ex.28-4). PCUSA had no capacity to administer the affairs of the Hanmi Presbytery because of the language barrier problem as noted in the June 19, 1999 minutes of the special meeting of the Synod of Southern California and Hawaii. (T.R. Ex. 28-12).

3. Formation of the Korean Hope Christian Church

Korean Hope Christian Church ("Hope Church") is a California corporation incorporated in 1973. (T.R. Ex.93 & 94). Reverend Kyung Suh Kim is the president of Hope Church and has been since 1971. Hope Church always held property in its own name with no trust language in the Articles of Incorporation or deeds. (R.T. 909, 945, Ex. 15-17). The capital to build the church came from Hope Church. (R.T. 914- 915). Neither the PCUSA nor any of its organizations contributed to the building of the church or acquiring of its property. (R.T. 914-916). Hope Church joined PCUSA in 1995. (R.T. 326-327, 647, Ex. 2 & 251, Opinion p. 6-7). Using its own assets, Hope Church also acquired land for use as a parking lot by funds from members attending services. (R.T. 915, Ex. 915). The PCUSA never assisted in the purchase of the property. (R.T. 916).

Hope Church contemplated leaving PCUSA

around January 2003. (R.T. 1228). The Board of Directors of Hope Church met and unanimously voted to leave PCUSA. (R.T. 922). In addition, the congregation unanimously signed a document approving the disaffiliation with the PCUSA around January 25, 2003. (R.T. 924-6, Ex.8). At that time, there were no conflicts in the congregation of the church nor any complaints about the manner in which the Board of Directors was running the church. (R.T. 930, 939).

After the withdrawal of the Hope Church from PCUSA, the PCUSA created a Hope Church Administrative Commission ("Administrative Commission") (R.T. 42-3, 79-81, 1503-4, Ex.265, Opinion, p. 11-12), which took control of the session of Hope Church (R.T.1858), and created a unilateral power against the congregant members. (R.T. 1536, 1545 – 6).

In addition, as part of the process, the Administrative Commission declared a schism and declared the PCUSA would decide who represented the "true church." (R.T. 83). In making that determination, PCUSA stated the "true church" would always be a group of people who were loyal to the PCUSA even if it was only one person. (R.T. 107, 1521-2, 1543)/ Stated otherwise, there could never be a withdrawal of a church from PCUSA. (R.T. 1522). PCUSA then commenced steps to confiscate the real and personal property of Hope Church. (R.T. 83, 1524).

4. Procedural Background

On January 7, 2004, in the wake of disaffiliation, Respondents brought an action to both reverse the disaffiliation and to confiscate Hope Church's real

property. The trial court entered judgment in favor of Respondents. Petitioners appealed. The Second Appellate District, Division Three affirmed. It held that by joining the PCUSA, a trust automatically was imposed upon Hope Church's property in favor of the Respondents, pursuant to a trust clause provision in the Book of Order and California Corporations Code, Section 9142(c).

Petitioner filed a Petition for Review asking the California Supreme Court to review the judgment of the California Court of Appeal. The California Supreme Court granted review, held the petition in abeyance, and then dismissed the petition in light of the decision in, *Episcopal Church Cases*, 45 Cal.4th 467 (2009).

REASONS FOR GRANTING THE PETITION

1) Certiorari should be granted to determine whether California Corporations Code Section 9142(c), as construed and applied by the California Supreme Court, unconstitutionally burdens freedom of worship and association in violation of the First Amendment to the United States Constitution.

2) Certiorari should be granted to determine whether deference to a national denomination's finding of a "schism" or "true church" should be limited to a religious determination and not be adopted by secular courts to resolve property ownership disputes, in light of the limitations imposed by the First Amendment to the United States Constitution.

I.

THIS COURT SHOULD GRANT REVIEW TO RESOLVE AN IMPORTANT QUESTION OF LAW REGARDING THE CONSTITUTIONALITY OF CALIFORNIA CORPORATIONS CODE SECTION 9142(C)

Between 1871 and 1979, this Court decided seven important cases relating to church property disputes, culminating with *Jones v. Wolf,* 443 U.S. 595 (1979). On each occasion, the Court issued cautionary language to the civil courts about interfering with ecclesiastical law and polity of churches. Thirty years have elapsed since this Court last spoke on this issue.

In *Watson v Jones,* 80 U.S. 679 (1871), the Court drew a bright line between congregational and hierarchical churches directing that civil courts determine church property control as follows: In a congregational church, the determination is made by a majority vote of the congregation or an authorized local church board. In a hierarchical church, the determination is made by the highest church governing body that has ruled on the matter. The Court stated that civil courts must accept the rulings of such church bodies and not engage in ecclesiastical decisions themselves. This case established the hierarchical deference rule which states that the civil courts must make property control rulings on the basis of the church judicatory ruling. By contrast, in the cases of congregational or independent churches, the civil courts must defer to the majority vote of the local congregation.

In *Gonzalez v. Roman Catholic Archbishop,*

280 U.S. 1 (1929), this Court established an exception that later came into play in church property cases. Generally, this Court held that the decision of church tribunals, even those affecting civil rights, are binding on the civil courts, unless a finding of fraud, collusion, or arbitrariness is involved.

In *Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440 (1969), this Court held Georgia's departure-from-doctrine rule unconstitutional under the First Amendment because it compels civil courts to determine what are the substantial original tenets of the church and whether or not they have been abandoned. This Court held civil courts must not decide church property cases by resolving controversies over religious practice and doctrine. The Court announced but did not define the neutral principles of law doctrine.

Jones v. Wolf, 443 U.S. 595 (1979), established the neutral principles of law doctrine as an alternative to the hierarchical deference rule of *Watson v. Jones.* The Court identified three permissible approaches that States may use to settle church property disputes: 1) neutral principles of law where the court examines statutory law on churches holding property, church corporate articles, deeds and the provisions of the denomination's constitution. 2) hierarchical deference; or, 3) a presumptive rule of majority representation may be used.

Section 9142(c) attempts to codify the neutral principles approach, but it actually incorporates elements of the hierarchical deference rule as well.

In *Episcopal Church Cases*, 45 Cal.4th 467

(2009), the California Supreme Court held that a hierarchically organized church could impress a trust on a local religious corporation of which the local corporation is a member if the governing instruments of that superior religious body so provide under Section 9142(c) of the California Corporations Code.

That result is irrespective of whether that is appropriate and without taking into consideration the independent or congregational status of the church – as in the case of Hope Church.

The record is undisputed that Hope Church was an independent church since the time of its formation. In *Watson v. Jones*, 80 U.S. 679 (1871), this Court drew a bright line between congregational and hierarchical churches stating that in a congregational church, the determination be by majority vote of the congregation or authorized members of the church board, and that the civil courts must defer to the majority vote of the congregation, while in a hierarchical church, the determination be by the highest church governing body. In this case, the Hope Church operated as a separate, self-governing corporation, with the attendant rights, responsibilities and costs of property ownership, independent at the time of formation, and then briefly affiliated with a national denomination. Hope Church never forfeited its independent status.

Section 9142(c) permits the national church to unilaterally create a trust interest over the real property of Hope Church based upon the affiliation. This interpretation is unconstitutional because effectively, once an independent church joins a denomination, it creates a permanent affiliation and restricts the ability of the local church to withdraw from the denomination, without facing huge and

unconscionable penalties, which infringes upon the freedom to worship and affiliation guaranteed under the First Amendment.

The record shows that for 25 years, Hope Church remained as an autonomous corporation. No permission was sought at a higher level at its formation. The property was purchased without the financial assistance of the national denomination. Construction loans were taken independently of the national denomination. For a brief period between 1995 through 2002 the Hope Church affiliated with the national church. When Hope Church decided to disaffiliate, the national denomination claimed ownership to the real property under their own set of rules and filed a lawsuit to confiscate the property.

Section 9142(c) allows the national denomination's own internal rules to trump state corporate law. Such an interpretation of Section 9142(c) creates a constructive "permanent affiliation." Section 9142(c) allows a superior religious body to enact their own set of internal trust rules to confiscate real property interests only upon a showing of affiliation or membership, irrespective of the independent or congregational status of the local church.

No showing is required that the local church subjected themselves to the express restraints on their property at the time of affiliation with the national church. No showing is required that the local church intended to hold the property in trust and for the benefit of the national church as is the intent in true hierarchical church relationships. The only showing required under the current construction of Section 9142(c) is that of an affiliation, any affilation, to the national denomination, which conflicts with the holding

of *Watson v. Jones,* 80 U.S. 679 (1871).

II.

THIS COURT SHOULD EXAMINE WHETHER JUDICIAL DEFERENCE TO ECCLESIASTICAL MATTERS IS BEING IMPROPERLY APPLIED BY THE COURTS

This Court has held consistently that civil courts must not decide church property cases by resolving controversies over religious practice and doctrine. However, the civil courts have taken this doctrine one step further by allowing ecclesiastical determinations by a church tribunal to decide real property disputes which is in violation of the First Amendment.

This is a recurring issue, not only in California but in other states and warrants this Court's attention.

In this case, the court appears to apply the neutral principles approach but then defers to the ecclesiastical body to determine 1) the property ownership issue, and, 2) church control issue by ruling that the civil court has to accept the decision of PCUSA's Administrative Commission, as the decision of the highest church tribunal. This automatic deference disenfranchises the congregant party i.e. majority members of Hope Church because it prevents the merits of each particular situation being weighed by the courts. Instead, the national denomination always wins even when the facts are clear no schism existed at the time of disaffiliation, as in this instant case. Rather, PCUSA subsequent to the disaffiliation, created a schism (when no schism existed at the time of the disaffiliation) and confiscated the property on their own

findings that they were the "true church."

This Court cautioned the civil courts to apply judicial deference to ecclesiastical issues, but the civil courts have stretched the church tribunal authority to allow the national denominations to decide real property ownership issues which are issues for the secular courts to decide. The laws of contract, tort, trust and property should be applied in these instances. Ecclesiastical determinations should not be determinative.

In resolving disputes over church property and control of religious corporations, the parameters of "deference" to the denomination must be established. Under the First Amendment, a denomination is entitled to "deference" only as to doctrine, polity or religious practices; matters involving civil and property rights must be decided under the laws of the State. *California-Nevada Annual Conference v. St. Luke's United Methodist Church,* 121 Cal.App.4th 754 (2004). The District Court of Appeal, at pages 771 – 2, cautioned against an erroneous determinations of "deference: "We acknowledge that our decision in this case appears to be at odds with the Second Appellate District's recent opinion in *Guardian Angel Polish Nat. Catholic Church of Los Angeles, Inc. v. Grotnik,* 188 Cal.App.4th 919, 93 (2004); *Episcopal Church Cases,* 45 Cal.4th 467 (2009)].

In short, denominations are entitled to deference in matters involving religious issues, but not civil or property rights. Cases such as *Central Coast Baptist Assn'n v. First Baptist Church.* 154 Cal. App.4th 586 (2007) (*"Central Coast Baptist")* and *Concord Christian Ctr. v. Open Bible Standard Churches,* 132 Cal.App.4th 1396 (2005) (*"Concord Christian"*) failed to not properly

apply "neutral principles" by giving deference to a denomination's adjudication of civil or property rights when it was not appropriate.

In *Central Coast Baptist,* although the denomination was a pure congregational denomination and the case did not involve any question of "hierarchy," a separate religious entity was given power to control the local church, which had been formed as a California corporation. If the adversarial entities in *Central Coast Baptist* had not been religious entities, it would have been unimaginable for a court to treat one entity as a mere legal fiction for a putatively "superior" entity. The decision went well in the direction of "establishing" religion in that the court gave conclusive legal effect to its view that a hierarchically "superior" religious entity was also "legally" superior.

Similarly, in *Concord Christian,* the court allowed a denomination to take control of an autonomous California corporation, despite well-established California law that challenges to corporate action can only be made by officers, directors, or shareholders of the corporation. (See, *Korean Philadelphia Presbyterian Church v. California Presbytery,* 77 Cal.App.4th 1069, 1082 (2000) As such, under California neutral law, the plaintiff in *Concord Christian* had no standing to challenge the corporate actions of the defendant. (*Id.*)

Although these decisions claimed to have applied "neutral principles," in fact they suspended what would otherwise have been the neutral application of secular law in favor of deferring to the result desired by the putatively "superior" religious entity. (See, *California Nevada Annual Conference of the United Methodist Church v. St. Luke's United Methodist Church,*

supra, 121 Cal.App.4th 754) Such "deference" to the denomination will create havoc in the legal system, and if unchecked, will result in abuse, as is what happened in this instant case.

"Deference" results in ostensibly hierarchical denominations being able to ignore the many safeguards written into the California Legislature into the body of corporations law which opens the door to deceit or artifice. Such as in this case where the national denomination creates an impenetrable, confiscatory trust provision within the constitution but fails to define the relationship or the rules by which the relationship is governed i.e. contractual, fiduciary making a legal defense impracticable.

"Deference" should only be given when the matter is a pure ecclesiastical issue. "As long as civil or property rights are involved, the courts will entertain jurisdiction of controversies in religious bodies although some ecclesiastical matters are incidently involved." (*Providence Baptist Church v. Superior Court,* 40 Cal.2d 55, 60 (1952). Courts have traditionally recognized that disputes pertaining to civil and property rights are subject to judicial intervention. (*Rosicrucian Fellowship v. Rosicrucian Fellowship Non-Sectarian Church*, 39 Cal.2d 121, 131 (1952); *Burnett v. Banks*, 130 Cal.App.2d 631, 635 (1955) Since corporate governance involves both civil and property rights, disputes over corporate governance may be reviewed by the courts. (See for example *Presbytery of Riverside v. Community Church,* 89 Cal.App.3d 910 (1979).

Applying neutral principles avoids the difficulties inherent in a legal regime that would otherwise let religious denominations pick and chose legal principles to their benefit. Giving "deference" to the

denominations' decisions in doctrine, polity, or religious practices would be maintained.

Applying neutral principles to civil matters would afford easy resolutions of issues and avoid excessive entanglement. The right of a religion to organize itself spiritually does not include an unfettered right to pass internal rules to obtain ownership interests in property they do not own, and then demand the courts to blindly "defer" to them.

III.

JUDICIAL DEFERENCE TO AN ECCLESIASTICLAL BODY'S FINDING OF A SCHISM SHOULD BE LIMTED TO A RELIGIOUS DETERMINATION AND SHOULD NOT AFFECT PROPERTY RIGHTS

In this instant case, the lower court decided this case in favor of the PCUSA by characterizing the dispute as an ecclesiastical matter that caused a schism to exist in the local congregation over which faction constituted the "true church". The court then held that the constitution requires that civil courts not overrule the authority of hierarchical denominations with respect to such matters, so that the court could not interfere with the PUCSA's finding of which side constituted the "true church" and were therefore entitled to control the church property.

The lower court improperly applied the notion of "deference" to a finding of the Administrative Commission. Under a proper application of neutral principles, Hope Church could exercise its autonomous corporate rights, withdraw from the denomination and do so, without interference from a third party. This

deference to hierarchy is misplaced. Deference to an ecclesiastical body's finding of a "schism" or "true church" should be limited to a religious determination. In this case, the trial court failed to address that Hope Church had disaffiliated from the PCUSA before any "schism" occurred and any finding of "schism" was irrelevant and should not affect the property rights of a California corporation.

IV.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted:

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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule &1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF
APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

COURT OF APPEAL - SECOND DIST.
FILED
AUG 19 2008
JOSEPH A. ... Clerk
... Deputy Clerk

SYNOD OF SOUTHERN CALIFORNIA AND HAWAII, et al.,

Plaintiffs and Respondents,

v.

KYUNG SUH KIM et al.,

Defendants and Appellants.

B191806

(Los Angeles County
Super. Ct.No.Bc308786)

APPEAL from a judgment of the Superior Court of Los Angeles County, Lee Smalley Edmon, Judge. Affirmed.

Penner, Bradley & Buettner, Peter Sean Bradley and Randall M. Penner for Defendants and Appellants.

Law Offices of George S. Burns and George S. Burns for Plaintiffs and Respondents.

INTRODUCTION

The main issue in this appeal concerns how to resolve a dispute between a national denomination and an affiliated local church about ownership and control of property of the local church, Korean Hope Christian Church (Hope Church). This in turn involves the meaning of Corporations Code section 9142 and whether its provisions authorize the imposition of a trust on local church property in favor of the national denomination. Defendants, the former pastor and former elders and members of the Hope Church, appeal a judgment imposing a trust on that church's real property in favor of the national denominational church, Presbyterian Church (U.S.A.) (PCUSA), quieting title in PCUSA, and awarding injunctive relief. We conclude that, applying neutral principles of law to this property dispute, substantial evidence supports the judgment. Moreover, section 9142, subdivision (c) (2) applies to this case as a neutral principle of law, and the trial court properly found that a trust was impressed on the assets of Hope Church in favor of PCUSA. We further find that the trial court properly deferred to the determination of the ecclesiastical body, PCUSA and its Hanmi Presbytery and Hope Administrative Commission, of who constituted the true church of Hope Church. Finally, we find that defendants have not shown that the proceedings of the Hope Administration Commission denied them due process. We affirm the judgment.

FACTUAL and PROCEDURAL HISTORY

On January 7, 2004, plaintiffs Synod of Southern California and Hawaii, Presbytery of Hanmi, Hope Church, a California non-profit religious corporation, and Mark Hong filed a complaint against Kyung Suh Kim (Rev. Kim) and other defendants who were elders and members of Hope Church. Although the complaint alleged 10 causes of action, only the first cause of action to enforce an express trust, the third cause of action to enforce the terms of a constructive trust, and the fifth cause of action to quiet.

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1 Unless otherwise specified, statutes in this opinion will refer to the Corporations Code.

Title went to trial, The trial court entered judgment in favor of plaintiffs and against Rev. Kim and the other defendants, who appeal.

1. The PC USA, its Organizational Hierarchy, and its Constitution:

PCUSA , the national religious denomination, was formed in 1983, when the United Presbyterian Church in the United States of America and the Presbyterian Church in the United States of America merged. The General Assembly is its highest governing body. PCUSA has 16 regional synods, one of which is plaintiff Synod of Southern California and Hawaii (Synod). Within each synod are presbyteries; the Synod has 8 presbyteries, one of which is Hanrni Presbytery, a non-geographic, Korean-language presbytery organized

to assist the Presbyterian Church in its ministry to Korean immigrants. Below a presbytery are local church sessions, which are composed of elected elders who govern a local congregation as the equivalent of a board of directors. The session, not a local church pastor, has responsibility to carry out instructions from the presbytery. The session, ministers, and church elders are required to follow the PCUSA Constitution, and PCUSA member churches are required to accept the PCUSA Constitution as their governing instrument.

PCUSA has a written constitution with two parts, a Book of Confessions (collecting doctrinal confessions of the church) and a Book of Order. The Book of Order has three parts, the "Form of Government," the "Directory for Worship," and the "Rules of Discipline." Chapter 8 of the Book of Order contains provisions concerning the property of a local church, and provides that all property of the local church is held in trust for the PCUSA denomination.2. Upon becoming a member of PCUSA, a church's property is transferred into trust for PCUSA. A local congregation may incorporate and hold property, and normally the name of the local congregation is on the deed to its

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2 Book of Order G-8.0201 states: "All property held by or for a particular church, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association,

and whether the property is used in programs of a particular church or of a more inclusive governing body or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.)."

property, as permitted by Book of Order section G-7.0402. As stated, the Book of Order establishes a trust relationship for a local church's property and states that the trustee is the session (or trustees accountable to the session) of the local congregation. Pursuant to section G-8.0201, trustees hold church property for the entire PCUSA denomination, If the session fails to carry out its responsibilities, the presbytery is the successor trustee. When a local church ceases to use church property in accordance with the PCUSA Constitution, Book of Order section G-8.0300 requires that property to be held, used, applied, transferred, or sold as provided by the presbytery. Section G-8.0500 prohibits a local church or session from encumbering, mortgaging, selling, or leasing church property without the presbytery's written permission.

Book of Order section G-8.061 states that "[t] he relationship to the [PCUSA] of a particular church can be severed only by constitutional action on the part of the presbytery. (G-11.0103i) If there is a schism within the membership of a particular church and the presbytery is unable to effect a reconciliation or a division into separate churches within the [PCUSA], the presbytery shall determine if one of the factions is

entitled to the property because it is identified by the presbytery as the true church within the [PCUSA]. This determination does not depend upon which faction received the majority vote within the particular church at the time of the schism."

Book of Order section G-9.0500 gives sessions, presbyteries, synods, and the General Assembly the power to appoint administrative commissions, which have defined authority over the next lower governing body. Pursuant to section G-9.0502, the appointing body defines the duties and powers given to an administrative commission when it is created. The scope of an administrative commission's powers can include receiving all power to act for the lower governing body; the administrative commission can, for example, take over and exercise the power of a local church session.

2. Rev. Kim, the Hope Church, and its Membership in PCUSA:

Rev. Kim, former pastor of Hope Church, received an undergraduate degree from Seoul National University in 1959, a Master of Divinity from Seoul Presbyterian Seminary in 1961, and a Doctorate in Ministry from Claremont University School of Theology in 1983. In 1964 the Korean Presbyterian Church at Pyong Yang Presbytery in Korea ordained Rev. Kim as a minister. After coming to the United States in 1965, Rev. Kim was an associate minister at Los Angeles United Church, an independent Presbyterian church, from 1965 to 1971. In 1971 he

became pastor of Hope Church, which was not affiliated with any national denomination.

Hope Church was first established in 1971. Rev. Kim was elected the president of Hope Church in 197I; there has been no election of a church president since then. The church was registered with the State of California in 1973. Originally based in Hollywood, the Hope Church is now located in Cerritos. Although the congregation has a meeting in January of each year, Rev. Kim had no minutes of those meetings and no corporate resolutions before 2003. Rev. Kim testified that the session gave him absolute authority to act for the benefit of Hope Church. On July 20, 2003, the Board of Trustees of the Hope Church by resolution delegated all its powers to Rev. Kim, at his discretion, to decide all matters of the church.

The Hope Church Articles of Incorporation filed in 1973 stated that By-Laws
would set forth the number and qualifications of corporation members, different classes
of members, members' property, voting, and other rights and privileges, and members' liabilities to dues and assessments and the method of collecting them. Although a "BY-LAWS, RULES AND REGULATIONS" document was produced at trial, it was unsigned. Dong Chul Cho was a member of the Hope Church since 1993, was very active in the church, and became a member of the Session in 1999. When Cho joined the church, Rev. Kim told him the church belonged to him, stating that just as a company belongs to its president,

the pastor owns the church. During a dispute about election of church elders in 1994, Cho asked to see the by-laws for Hope Church, but Elder Byung Kwan Min told him there was no set of by-laws. Cho never saw written minutes of session meetings when he was a session member from 1999 to 2003.

3. Real Properly of Hope Church:

The original grant deed of the Cerritos real property at issue to Hope Church was dated May 24, 1987. By a grant deed dated March 5, 1990, Hope Church granted the real property to Rev. Kim and his wife as joint tenants. Rev. Kim signed the grant deed as President of the Hope Church. Two years later he learned that the County levied property tax of $20,000 to $30,000 because the church property, having been transferred to individuals, no longer qualified for a tax exemption. Rev. Kim then caused the real property to be transferred back to Hope Church by a grant deed of October 27, 1992 For the years the property was in his name, Rev. Kim caused the church to pay property taxes of $ 10,632.99 for 1990, and also caused the church to pay property taxes for 1991 and 1992. Hope Church acquired an additional adjacent property on May 1, 1996.

4. *Hope Church Joins PCUSA:*

Dong Chul Cho testified that after he joined Hope Church, he heard many rumors from other church members about Rev. Kim, about the difficulty *of* finding a youth pastor, and that there were no rules applied to any church elections. In early 1993,

40 people from the Korean Independent Presbyterian Church (KIPC) joined Hope Church. KIPC was a PCUSA church. Cho and other church members heard about how PCUSA handled church elections, concluded that PCUSA church elections were valid, and wanted Hope Church to join PCUSA. Cho also heard discussions that the PCUSA had a constitution and that PCUSA members were required to abide by its rules. In the months before October 1995, church members frequently discussed the idea of joining PCUSA, and on many occasions discussed PCUSA's rules that member churches were required to follow. Cho and other church members concluded that joining the PCUSA would benefit the Hope Church. Cho talked with other church members to the effect that when a church joins PCUSA, its property is subject to PCUSA's control and supervision. Members were concerned that because it was possible for Rev. Kim to place church property in his name, it was necessary to join PCUSA to obtain the protection of PCUSA rules. According to Cho, everyone liked the idea of joining PCUSA, and there were discussions about how PCUSA rules would be applied to church elections and discussions of how church property would be treated if the church joined PCUSA. Cho heard other members state that once the church joined PCUSA, church property would belong to PCUSA so Rev. Kim would no longer attempt to own church property and could not sell it without PCUSA's permission. Church members who had come from KIPC knew about the PCUSA property rules. Cho testified

that the other congregants unanimously agreed that they wanted PCUSA to own Hope Church. A church member who came from the KIPC told how the KIPC pastor tried to secede from PCUSA with church property, but PCUSA rules prevented that pastor from carrying out his plan,

Until 1995, the Hope Church was independent and not affiliated with any national denomination. In 1995, Rev. Kiln submitted an application for Hope Church to join Hanmi Presbytery, Synod of Southern California and Hawaii, and PCUSA. In October 1995, Hope Church joined PCUSA. Also in 1995 Rev. Kim applied for a minister's admission to the Hanmi Presbytery. Hanmi Presbytery received Rev. Kim as a minister on September 5, 1996.

Rev. Kim testified that he proposed to the Hope Church Session that the church join PCUSA. When the church applied to join Hanmi Presbytery, Rev. Kim was aware that PCUSA had a Constitution and a Book of Order whose rules governed PCUSA member churches. He also testified that he knew that Hope Church would become subject to the PCUSA Constitution, and he intended that the church would abide by and be guided by the PCUSA Constitution. Later, on June 15, 2000, Rev. Kim signed a "Covenant Between Active Members and Elders of Hanmi Presbytery and The Presbyterian Church (U.S.A.)" stating that he promised that he would "abide and be guided by the Constitution of the PC(U.S.A.)."

5. As Moderator of Hanmi Presbytery, Rev. Kim

Relies on the Book of Order and Its Trust Clause in Matters Involving Local Church Property:

Margaret Wentz, Corporate Secretary for the Synod, testified that a "moderator" is the most senior office of Hanmi Presbytery, acts as chief presiding officer, has the power of appointment, and serves on other important committees, Rev. Kim was interim moderator of Hanmi Presbytery in 1999 and 2000.

During this period Rev. Kim abided by and relied on the Book of Order, and as moderator acted to enforce its provisions in several proceedings. In March and May of 2000, Rev. Kim presided over meetings in which the Hanmi Presbytery created an administrative commission for the Young Eun Presbyterian Church to address a pastor's attempt to sell church property without authority and to address an improperly called congregation meeting. In another matter involving the Orange County Presbyterian Church, a dispute had arisen between church elders, who believed that church funds were held in a restricted bank account as a building fund to acquire a church property; the church's pastor, however, had used that money from that account as operating funds. On April 20, 1999, on behalf of Hanmi Presbytery, Rev. Kim sent written instructions to the California Korean Bank in Garden Grove to freeze the $60,000 account of Orange County Presbyterian Church and stating that the funds belonged to the Hanmi Presbytery, On May 17, 1999, Rev, Kim participated in a Hanmi Presbytery Administration Commission decision to authorize a civil

suit to prevent the pastor of Orange County Korean Presbyterian Church from using church building funds for operating expenses. Rev. Kim verified a complaint filed by the Synod and Hanmi Presbytery against Orange County Korean Presbyterian Church, alleging that this church was subject to the PCUSA Book of Order and to its provision that local church property was held in trust for the use and benefit of PCUSA. On behalf of the Hanmi Presbytery as moderator, Rev. Kim signed a May 20, 1999, letter requesting the cooperation of California Korea Bank to safeguard disputed church funds to permit resolution of the matter "consistent with the rules governing [PCUSA]."

6. During Disputes Within Hope Church and Among Its Members, Rev. Kim Again Relies on the Book of Order and Requests Intervention by Hanmi Presbytery:

In an August 5, 2001, letter to a Synod Executive, seven elders of Hope Church reported that when Rev. Kim ignored a petition from the congregation requesting that the session hold a congregational meeting, a majority of session members announced a congregational meeting. The elders' letter requested that the Synod and Hanmi Presbytery intervene on the congregation's behalf and provide a moderator for a congregational meeting to: (1) effectuate the retirement of Rev. Kim as pastor and establish him as Pastor Emeritus; (2) form a committee to search for the next pastor; and (3) remove Rev. Kim and two elders as authorized signers of church

checks. Rev. Kim responded in letters to the Committee of Ministry Chair, with copies to Hanmi Presbytery and Synod officials. Rev. Kim notified them that the session had deleted three individuals from the Hope Church membership roll according to The Book of Order, G-10.0302b(4). Rev. Kim testified that he requested Hanmi Presbytery to come to Hope Church and tell other church members to stop holding meetings in violation of the Book of Order. Rev. Kim made other attempts to stop Hope Church members from conducting what he considered to be an illegal congregational meeting. In a November 26, 2001, letter, Rev. Kim stated that Presbyterian churches and members should faithfully observe the Book of Order, and asked the Presbytery and Synod *to show the Hope Church* session how it should treat members' illegal activities.

7. The Hanmi Presbytery Forms the Hope Administrative Commission to Resolve a Dispute Between Rev. Kim and Rev. Oh:

In January 2002, Bethel Presbyterian Church in Norwalk, California, and its pastor, Rev. Oh, agreed to merge with Hope Church. Rev. Oh acted as a minister at Hope Church for a period, but a dispute arose. In late 2002, Hanrni Presbytery received a complaint from Rev. Oh that he was unfairly asked to leave, and that Hope Church no longer paid his salary since he ceased to act as minister in September 2002, The Presbytery Committee on Ministry investigated Rev. Oh's complaint.

On January 3, 2003, Rev. Kim wrote an "Accusation" letter to the Hanmi Presbytery. It alleged that pursuant to Book of Order section D-10.0102, Rev. Oh committed a series of offenses: failing to transfer $100,000 in Bethel Presbyterian Church assets to Hope Church; falsifying Rev. Oh's personal history; making defamatory statements on a Radio Korea broadcast; and claiming to be a minister of Hope Church after he ceased to work there. Rev. Kim's "accusation" requested referral of these allegations to an investigation committee pursuant to Book of Order section D-10.0101. Rev. Kim testified that when he wrote this letter, the Hanrni Presbytery had authority to investigate Rev. Oh, to obtain the Bethel Presbyterian Church assets, and to expel Rev. Oh from Hope Church. Under Book of Order section D-10.0102, subsection (a), Rev. Kim considered himself and Rev. Oh under PCUSA jurisdiction.

When the Presbytery Committee on Ministry investigating Rev. Oh's complaint did not receive Rev. Kim's cooperation, it asked the Synod Administrative Commission to form the Hope Administrative Commission. The Hope Administrative Commission tried to mediate the dispute between Rev. Kim and Rev. Oh. When the Hope Administrative Commission was impaneled on March 23, 2003, Hope Church had not notified the Hanmi Presbytery that it had left PCUSA. When the Hope Administrative Commission interviewed Rev. Kim on May 6, 2003, Rev. Kim had not informed that Commission that he had renounced

the PCUSA's jurisdiction or that Hope Church had left Hanmi Presbytery and PCUSA. From July through September 2003, Rev. Kim did not inform the Hope Administrative Commission that he had left the PCUSA's jurisdiction.

In a complaint filed on June 3, 2003, Rev. Kim and Hope Church sued Rev. Oh for breach of contract, embezzlement and/or conversion of church funds, and other causes of action. That complaint identified Hope Church as "a member of [PCUSA]." Rev. Kim testified that this allegation in the complaint was true as of June 3, 2003.

The mediation continued, but as of November 23, 2003, Rev. Kim ceased to respond to the Hope Administrative Commission's requests or its offer to meet with him, and did not provide the membership, financial, and business records the Commission requested. Rev. Kim did not attend a January 18, 2004, hearing and congregational meeting convened to hear the positions of Revs. Kim and Oh. The Hope Administrative Commission eventually concluded that he had not cooperated. Rev. Kim never provided a set of Hope Church by-laws.

On December 17, 2002, Rev. Kim filed a complaint with the Permanent Judicial Commission of the Synod, alleging that Hanmi Presbytery violated Book of Order section G-11.0404(c) because Rev. Oh did not furnish satisfactory evidence of having been removed as a minister from the prior denomination with which he was associated, and the Hanmi

Presbytery violated Book of Order section D-6.0202a by failing to correct this irregularity after receiving notice of it from Rev. Kim.

8. *Rev. Kim Begins Efforts to End Hope Church's Relationship With PC USA:*

Previously in January 2003, Rev. Kim had caused numerous Hope Church members to sign written statements approving termination of the relationship between the Hope Church and PCUSA. Rev. Kim told members who signed these termination statements that they needed to preserve and protect the Hope Church, which was more than 30 years old. Rev. Kim, however, never delivered the members' termination statements, and continued to take the position that Hope Church was still within PCUSA. Hope Church members later signed declarations explaining why they had signed the termination statements, and raised new allegations about Rev. Kim's unauthorized attempt to sell church property for $2.5 million.

After Rev. Kim received notice of the complaint Rev. Oh lodged with Hanmi Presbytery, in January 2003 Rev. Kim informed his congregation that the presbytery might create an administrative commission to resolve the dispute with Rev. Oh. Church members knew that such an administrative commission might cause Rev. Kim to lose control of Hope Church.

9. *Hanmi Presbytery Authorizes the Hope Administrative Commission to Act as the Session of Hope Church:*

On March 25, 2003, Hanmi Presbytery authorized the Hope Administrative Commission to act for and on behalf of Hope Church, including acting as that church's session. On April 4, 2003, the Hope Administrative Commission by resolution confirmed that the prior Session of Hope Church was dismissed effective March 25, 2003, that the authority of all previous Hope Church representatives and authorized bank account signatories was revoked and ineffective, and that the Hope Administrative Commission assumed responsibilities of the Session and authorized and ratified all *necessary actions to* safeguard records and assets of the Hope Church for PCUSA. The Hope Administrative Commission elected a new moderator and president and a new secretary and treasurer, who became the only current officers of Hope Church.

On April 1, 2003, an attorney purporting to represent Hope Church advised officials of Hanmi Presbytery, the Synod, and PCUSA that by a unanimous vote of its board of directors and a majority of its membership, Hope Church terminated its affiliation and relationship with Hanmi Presbytery, the Synod, and PCUSA. Nonetheless in a September 30, 2003, letter to the Hope Administrative Commission and to the Synod Administrative Commission, counsel for Rev. Kim stated that Rev. Kim had not renounced jurisdiction of PCUSA. In 2003 Rev. Kim attended meetings of the Hope Administrative Commission, and did not inform that Commission that he had renounced PCUSA jurisdiction.

On April 18, 2003, Rev. Kim leased the Hope Church property to a third party without authority from the board. Rev. Kim testified that he accepted no rent checks pursuant to the lease and never intended the lessees to occupy the leased property, and that he entered into the lease to obtain an advantage in his dispute with the PCUSA. Rev. Kim also testified that he entered into a contract to sell the Hope Church parking lot for $2.5 million, and a grant deed transferring that property to the Victorville Sarang Church was recorded on June 13, 2003. The grant deed stated that the transfer of the property "is a bonafide gift and grantor received nothing in return[.]" Rev. Kim testified that he received nothing for the transfer of this property, and that by transferring the property to the Victorville Sarang Church he intended to put the property beyond the reach of PCUSA.

10. *The Hope Administrative Commission Dissolves Rev. Kim 's Pastoral Relationship With Hope Church:* On November 25, 2003, the Hope Administrative Commission made a preliminary decision to dissolve the pastoral relationship between Hope Church and Rev. Kim. On January 7, 2004, the Synod of Southern California and Hawaii, Presbytery of Hanmi, Hope Church, and Rev. Mark Hong (Moderator of the Hope Administrative Commission) filed the initial complaint in this action against Rev. Kim and other defendants. Before making a final determination, on January 18, 2004, the Hope Administrative Commission held a hearing and congregational meeting

to hear the positions of pastors, members, and other interested persons, Although invited to attend and respond to concerns expressed at the meeting, Rev. Kim did not attend or respond.

On January 27, 2004, the Hope Administrative Commission dissolved the pastoral relationship between Hope Church and Rev. Kim, effective February 1, 2004.

Judgment: After trial by the court, on June 13, 2006, the trial court entered judgment for plaintiffs and against defendants. As part of the judgment, the trial court issued a declaratory judgment finding that as of March 1995, all right, title or interest in any real or personal property held in the name of or intended for Hope Church was and continued to be held in trust for the use and benefit of PCUSA, to be used and applied as directed by the Hope Administrative Commission and Hanmi Presbytery.

Hope Corp. (Korean Hope Christian Church, a California non-profit religious corporation) was shown on legal title to real property known as 19319 and 19333 Carmenita Road, Cerritos, California. Any right, title, or interest of Hope Corp. in the property and real property of Hope Church was, and at all times since October 1995 had been, held in trust for the benefit of PCUSA. As of March 25, 2003, the disposition and management of the Hope Church property and real property were subject to the exclusive direction and disposition of the Hope Administrative Commission and Hanmi Presbytery.

The judgment also declared Hanmi Presbytery to be the fee simple owner of property and real property of Hope Church. The judgment therefore quieted title to the Hope Church property and real property in Hanmi Presbytery, and stated that no defendants had any estate, right, title, interest, or claim, either legal or equitable, in or to property or real property of the Hope Church. The judgment also awarded injunctive relief to plaintiffs, permanently enjoined defendants from interfering with the actions of Hanmi Presbytery and its Hope Administrative Commission, including without limitation acting as the session or board of directors of defendant Hope Corp., and from encumbering or attempting to encumber the Hope Church property or real property. The judgment ordered all defendants to give up possession of the Hope Church property and real property to the control of the Hope Administrative Commission.

Appeal: Rev. Kim and other defendants filed a timely notice of appeal.

ISSUES

Defendants claim on appeal that:

1. Plaintiffs failed to meet their burden in demonstrating that a trust existed in favor of PCUSA, and the trial court erred in so holding;

2. As a matter of law, Hope Church had the power to leave the PCUSA and once it had done so, the PCUSA did not have secular power over Hope Church;

3. Defendants were denied due process, as they received no right to be heard by the Hope Administrative Commission as required by the Book of Order.

DISCUSSION

1. Civil Courts Resolve Church Property Disputes by Neutral Principles of Law

The main issue in this appeal concerns how to resolve the dispute concerning ownership and control of Hope Church property. This in turn involves the question in what circumstances the civil court will enforce rules and regulations found in ecclesiastical governing instruments. It also involves the meaning of section 9142 and its effect on assets of a religious corporation. We first set forth the principles applicable to church property disputes. These principles derive from *Jones v. Wolf (1979)* 443 U.S. 595 and *Protestant Episcopal Church v. Barker* (1981) 115 Cal.App.3d *599 (Barker).*

The property dispute in *Barker resulted* from a controversy about church doctrine. Dissatisfied with how the national church's general convention resolved

this controversy, four local church congregations seceded from regional and national church bodies, but kept possession of local church property they held as local membership corporations created under the California nonprofit corporation law. The national church and the regional diocese sued the local churches to obtain title to and possession of their properties. The issue was whether local church organizations could keep church property held in their own names or whether they had to surrender it to regional and national church organizations as property held in trust for the general church. *(Barker, supra,* 115 Cal.App.3d at pp. 604-605.)

After first citing the rule that an owner of legal title is presumed to be the owner of full beneficial title to real property,[3] *Barker* analyzed three possible theories by which the general church organizations could try to rebut this presumption.

First, under the hierarchical theory, centralized church control over church property supersedes civil law disposition of such property, and the centralized church's governing rules override state law disposition of local church property. *(Barker, supra,* 115 Cal.App.3d at p. 605.)

Second, under the implied trust theory, "a local church accepts and holds local church property for the benefit of the entire membership of the general church" with which it is affiliated. The local church holds its church property as a charitable trust to benefit the

specific religious use in effect when it acquired the property. The local church is prohibited from applying the church property to a different religious use, and if it does so "the property reverts to a trustee who must apply it to its original religious purpose." *(Barker, supra, 115* Cal.App.3d at p. 606.)

Third, express trust theory "relies on title deeds, articles of incorporation, canons and rules of the organizations concerned and statutes, to establish that a local church holds property under an express trust for the benefit of the general church membership as embodied in its regional and national organizations." *(Barker, supra,* 115 Cal.App.3d at p. 606.)

Barker evaluated these three theories against the constitutional principal that "under the First Amendment a civil court is not allowed to adjudicate church property disputes by interpreting religious doctrine and practice and then relying on its own interpretation of doctrine to allocate control over church property." *(Barker, supra,* 115 Cal.App.3d at p. 612.) However, *Barker* held that courts charged with resolving church property disputes can use " neutral principles of law, developed for use in all property disputes,' " without violating the First Amendment by "establishing" churches

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[3] See Evidence code section 662: "The owner of the legal title to property is presumed to be the owner of the full beneficial title. This presumption may be rebutted only by clear and convincing proof."

found to be entitled to the property. *(Ibid.) Barker cited* the United States Supreme Court's approval of the state courts' use of "neutral principles of law" to settle church property disputes by examining "title deeds, statutes, corporate charters, and constitution, rules, and regulations of the general church." *(Id.* at pp. 612-614, citing *Jones v. Wolf, supra,* 443 U.S. 595.) Because it is difficult to separate issues of control over church property from issues of church authority over doctrinal controversy, "neutral principles *of* law promise to free a court from the necessity of inquiry into church doctrine, polity, and practice, and allow it to rely on objective, well-established concepts of trust and property law to dispose of disputed church property." *(Barker,* at p. 613.)

Barker concluded that California law rejected use of the hierarchical theory to resolve church property disputes, and instead adopted the "neutral principles of law" in its place. *(Barker, supra,* 115 Cal.App.3d at p. 614-615)

Barker also concluded that difficulties associated with the "use of the implied trust theory, once evaluation of theology and doctrine has been forbidden, remain insurmountable[,]" and thus found that "the implied trust doctrine provides no valid basis for transferring church property from the congregation in whose name the property is held to the general church," *(Barker, supra,* 115 Cal.App.3d at p. 620.)

By contrast, the third theory, whether an express trust in local church property existed for the benefit of

the general church, could be determined by the same neutral principles of law used to resolve property disputes between secular entities. *(Barker, supra,* 115 Cal.App.3d at p. 621.) "In determining the presence or absence of art express trust in specific church property a court will look at four general sets of facts: (1) the deeds to the property, (2) the articles of incorporation of the local church, (3) the constitution, canons, and rules of the general church, and (4) relevant state statutes, if any, governing possession and disposition of such property." These four general sets of facts are applied together, not singly, in determining whether an express trust on local church property has been created in favor of the general or denominational church. *(Ibid.; Korean United Presbyterian Church v. Presbytery of the Pacific (1991)* 230 Cal.App.3d 480, 510, disapproved on an unrelated ground, *Moreheart v. County of Santa Barbara (1994) 7* Cal.4th *725,* 743.) Subsequent cases have adopted these neutral principles of law to resolve church property disputes. *(Korean United Presbyterian Church v. Presbytery of the Pacific, supra, at p. 498; Korean Philadelphia Presbyterian Church v. California Presbytery (2000)* 77 Cal.App.4th 1069, *1081; Guardian Angel Polish Nat. Catholic Church of L,A., Inc. v. Grotnik (2004)* 118 Cal.App.4th 919, *930; Concord Christian Center v. Open Bible Standard Churches (2005)* 132 Cal.App.4th 1396, 1408; but see *California-Nevada Annual Conf. of the United Methodist Church v. St. Luke's United Methodist Church* (2004) 121 Cal. App.4th *754, 766-772.)*

As we discuss further *post,* the use of neutral principles of law to resolve church property disputes has a concomitant principle. The First Amendment "requires that civil courts defer to the resolution of issues of religious doctrine or polity by the *highest* court of a hierarchical church organization." *(Jones v. Wolf supra, 443* U.S. at p. 602.) "[A] state court may resolve disputes over church property through use of neutral principles of law . . . but if the civil court is required to resolve a religious controversy, it must then defer to the resolution of the doctrine issue by the authoritative ecclesiastical body." *(Korean United Presbyterian Church v. .Presbytery of the Pacific, supra,* 230 Cal. App.3d at p. 498.)

2. Section 9142, Subdivision (c)(2)

The *Barker* decision came before an important statutory change. In 1982, the California Legislature amended section 9142 by adding subdivisions (c) and (d). Section 9142 is part of the Nonprofit Religious Corporation Law (§ 9110 et seq), which authorizes the formation of a corporation for religious purposes (§ 9111). The powers of such a nonprofit religious corporation include the power to "[a]ct as a trustee under any trust incidental to the principal objects of the corporation, and receive, hold, administer, exchange, and expend funds and property subject to such trust." (§ 9140, subd. (k).) Section 9142, subdivision (a) identifies those parties which may bring an action to remedy a breach of a trust under which any or all of the assets of a nonprofit religious corporation are held. Subdivision

(b) imposes some requirements on a court's power to rescind or enjoin the performance *of a* contract. Subdivision (c) states:

"(c) No assets of a religious corporation are or shall be deemed to be impressed with any trust, express or implied, statutory or at common law unless one of the following applies:

"(1) Unless, and only to the extent that, the assets were received by the corporation with an express commitment *by* resolution of its board of directors to so hold those assets in trust.

"(2) Unless, and only to the extent that, the articles or bylaws of the corporation, or the governing instruments of a superior religious body or general church of which the corporation is a member, so expressly provide.

"(3) Unless, and only to the extent that, the donor expressly imposed a trust, in writing, at the time of the gift or donation."

Section 9142, subdivision (c)(2) is the provision that is relevant to this appeal.

3. Application of Neutral Principles of Law Supports the Judgment Imposing an Express Trust on Hope Church Real Property

We review the trial court's judgment as follows. To the extent the judgment depends on judicial interpretations of the constitution, by-laws, and other governing documents of PCUSA and Hope Church, this court applies neutral principles of law de novo. To the extent that the judgment resolves disputed factual

questions, we review according to the substantial evidence test, and consider all the evidence in the light most favorable to the prevailing parties, giving them the benefit of every reasonable inference and resolving conflicts in support of the judgment. *(Concord Christian Center v. Open Bible Standard Churches, supra,* 132 Cal.App,4th *at pp.* 1408-1409.)

We apply the four *Barker factors* to the facts of this case.

(1) Deeds to the property: The original grant deed of church property, dated May 24, 1987, showed that title was held as Korean Hope Christian Church, a California Corporation. In 1990, Korean Hope Christian Church Corporation conveyed the church real property to Rev. Kim and his wife, who two years later transferred the property back to Hope Church on October 27, 1992. Thus at the time it joined PCUSA, Hope Church held title to the church property. After Hope Church joined PCUSA in 1995, Hope Church acquired a second church property on May I, 1996.

(2) Local church articles of incorporation and by-laws: the Articles of Incorporation of Hope Church were filed with the California Secretary of State on May 8, 1973. The record contains a copy of the Hope Church By-Laws, Rules, and Regulations, which appears to date from 1973, but this copy is not certified by the church secretary and is unsigned. Neither document refers to PCUSA. There was evidence that Rev. Kim treated the church as his own and believed he had absolute authority to act on behalf of Hope Church, that

no written corporate resolutions or minutes of session meetings were kept, no election rules applied to church elections, and that at least one church elder stated that there were no church by-laws. Thus substantial evidence supports the trial court's finding that it was irrelevant that neither the Hope Church by-laws or articles of incorporation referred to PCUSA.

(3) Constitution, canons, and rules of the general church, PCUSA: PCUSA has a written constitution with two parts, a Book of Confessions and a Book of Order. Chapter 8 of the Book of Order contains provisions concerning local church property. Book of Order G-8.0200 states: "All property held by or for a particular church, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of a particular church or of a more inclusive governing body or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.)." Upon becoming a member of PCUSA, a church's property is transferred into trust for PCUSA. Book of Order G-8,0500 prohibits a local church or Session from encumbering, mortgaging, selling, or leasing church property without the presbytery's written permission.

Hope Church joined PCUSA in 1995. Church members were aware that PCUSA had a constitution which set forth rules which member churches were

required to follow. Church members also knew that when a church joined PCUSA, its property became subject to PCUSA's control and supervision, and they desired this protection of PCUSA rules. There was evidence that members desired that once Hope Church joined PCUSA, church property would belong to PCUSA so that Rev. Kim would no longer attempt to own church property and could not sell it without PCUSA's permission.

(4) Relevant state statutes governing possession and disposition of such property: The relevant statute is section 9142, subdivision (c)(2), stating: `(c) No assets of a religious corporation are or shall be deemed to be impressed with any trust, express or implied, statutory or at common law unless one of the following applies:

"[¶]...[¶]

"(2) Unless, and only to the extent that, the articles or bylaws of the corporation, or the governing instruments of a superior religious body or general church of which the corporation is a member, so expressly provide.'

Thus an express trust can be deemed to be impressed on assets of a religious corporation such as Hope Church if expressly provided *in either the* articles or by-laws of Hope Church, or the governing instruments of a superior religious body or general church of which Hope Church is a member, i.e., PCUSA. It is not required that the articles or by-laws of the local religious corporation expressly impress a trust on its assets; the trust can be created by the governing

instrument of PCUSA, the superior religious body or general church. "[P]rovisions in the `constitution of the general church' can override any right the majority of a local congregation might otherwise have to control local church property. *(Metropolitan Philip v. Steiger (2000) 82* Cal.App.4th 923, 931; *Jones v. Wolf supra,* 443 U.S. at pp. 607-608; *Guardian Angel Polish Nat. Catholic Church of L. A., Inc. v. Grotnik, supra,* 118 Cal.App.4th at p. 930.) Where the constitution of *the* general church recites an express trust in favor of the denominational church, "the civil courts will be bound to give effect to the result indicated by the parties, provided it is embodied in some legally cognizable form." *(Jones v. Wolf supra,* at p. 606.)

The facts show that Hope Church affiliated with PCUSA with knowledge of the property provision in the PCUSA constitution, and thus subjected itself to the express restraints on local church property found in the Book of Order, which contained a provision that local church property of affiliated congregations was held in trust for the use and benefit of the PCUSA. Section 9142, subdivision (c)(2) therefore supports the creation of a trust imposed on property of Hope Church in favor of PCUSA based on the property provision in the PCUSA Book of Order. The judgment therefore should be affirmed.

4. Defendants Have Not Shown That a Trust Impressed on Assets of a Religious Corporation Pursuant to Section 9142(c)(2) Was Invalid

Defendants cite Evidence Code section 662,

which states: "The owner of the legal title to property is presumed to be the owner of the full beneficial title. This presumption may be rebutted only by clear and convincing proof." Defendants claim that plaintiffs failed to provide clear and convincing proof that their beneficial interest complied with section 9142, subdivision (c)(2), and that the trial court erroneously found that the property provision in Book of Order G-8.0200 applied and created a trust under section 9142, subdivision (c)(2).

Defendants first argue that neither deeds to the church property nor the articles of incorporation of Hope Church create a trust. Section 9142, subdivision (c)(2), however, authorizes the creation of a trust if "the governing instruments of a superior religious body or general church of which the corporation is a-member ... expressly provide." Thus the property provision in Book of Order G-8.0200 is sufficient to support the creation of an express trust pursuant to section 9142, subdivision (c)(2). We reiterate that "provisions in the `constitution of the general church' can override any right the majority of a local congregation might otherwise have to control the local church property." *(Metropolitan Philip v. Steiger, supra,* 82 Cal.App.4th at p. 931; *Jones v. Wolf; supra,* 443 U.S. at pp. 607-608; *Guardian Angel Polish Nat. Catholic Church of L.A., Inc. v. Grotnik, supra,* 118 Cal,App.4th at p. 930.) Where the constitution of the general church recites an express trust in favor of the denominational church, "the civil courts will be bound to give effect to the result indicated

by the parties, provided it is embodied in some legally cognizable form." *(Jones v, Wolf supra, at* p. *606.)*

Defendants further argue that the Book of Order G-8.0200 cannot create a trust pursuant to section 9142, subdivision (c)(2), because a valid trust requires a competent trustor's intention to create a trust, a trustee, an estate conveyed to the trustee, the trustee's acceptance of the trust, a beneficiary, a legal purpose, and legal terms *(Reagh v. Kelley* (1970) 10 Cal.App.3d 1082, 1089.) Section 9142, subdivision (c)(2), however, authorizes the assets of a religious corporation to "be deemed to be impressed" with an express trust if, as in this case; "the governing instruments of a superior religious body or general church of which the corporation is a member, so expressly provide." Subdivision (d) of section 9142 refers to "[t]rusts created by paragraph (2) of subdivision (c)[.]" Section 9142, subdivision (c)(2) thus authorizes the creation of a trust on the assets of a religious corporation without all elements required by *Reagh v. Kelley*. "The statutory provisions governing nonprofit religious corporations discuss various methods by which the assets of a religious corporation may be deemed to be impressed with an express or implied trust. (See Corp. Code, § 9142, subd. (c).)" *(Korean Philadelphia Presbyterian Church v. California Presbytery, supra,* 77 Cal.App.4th at pp. 1088-1089, fn. 20.) The creation of a trust by the governing instruments of a superior religious body or general church of which the corporation is a member is one such method, and there is no requirement that

the local church's articles of incorporation or by-laws must contain an express reference to the higher body's rules or laws. *(Id.* at p. 1088.) When the governing instrument of a superior religious body or general church creates the trust, no provision of express trust is required in the local church by-laws or articles of incorporation. *(Korean United Presbyterian Church v. Presbytery of the Pacific, supra,* 230 Cal.App.3d at p. 510.)

We reject defendants' argument that section 9142, subdivision (c)(2) merely creates an implied trust and therefore did not prove by clear and convincing evidence that a trust in favor of PCUSA rebutted the Evidence Code section 662 presumption that the owner of legal title to property also owns full beneficial title. Instead the property provision in Book of Order G-8.0200 created an express trust authorized by section 9142, subdivision (c)(2). If any conflict between Evidence code section 662 and section 9142, subdivision (c)(2) exists, the latter is the more specific statute and prevails over the former, more general one. *(Garcia v. McCutchen* (1997) 16 Cal,4th 469, 478.)

Defendants' discussion of the legislative intent of section 9142 is unnecessary, because the meaning of that statute is clear. Where statutory language is clear and unambiguous, we follow its plain meaning and do not look elsewhere for evidence of legislative intent. *(Kobzoff v. Los Angeles County Harbor/UCLA Medical Center (1998)* 19 Cal.4th 851, 861.)

Defendants rely on *California-Nevada Annual*

Conf. Of the United Methodist Church v. St. Luke's United Methodist Church, supra, 121 Ca1.App.4th *754 (St. Luke's)* as holding that section 9142 is not intended to supplant basic principles of trust law. In *St. Luke's,* the local church was incorporated and affiliated with a national denomination, The United Methodist Church. The national church's *governing* instrument, the Book of Discipline, stated that the United Methodist Church's " `conferences, *councils,* boards, agencies, local churches, and other units bearing the name "United Methodist" '. " were the entities possessing legal capacities. *(St. Luke's,* at p. 758.) The Book of Discipline required titles to local church properties to be held in trust for the United Methodist Church, set forth trust language to be used in instruments of conveyance, and stated that the absence of a trust clause in previously executed deeds and conveyances would not exclude a local church from its "connectional responsibilities" to the United Methodist Church. From 1949 to 1998, the local church acquired title to nine properties; five grant deeds contained trust clauses in favor of the national denomination, while four grant deeds did not. *(Id.* at pp. 758-759.)

A doctrinal dispute arose in 1999 and 2000. Many local church members were on one side; their bishop was on the other, In August 2000, the bishop replaced the pastor of the local church with a new pastor. The day after the new pastor was introduced to people at the church, he was locked out of the church.

Representatives of the national church sued the

local church and the president of the local church's board of trustees for breach of a charitable trust, seeking injunctive relief and damages. The local church cross-complained, seeking declaratory relief and a declaration that plaintiffs had no interest in the property and that the local church could revoke any trust interest in real property by recording grant deeds, and deeding the property to itself without any trust language. Before trial, the local church amended its articles of incorporation to disaffiliate itself with the United Methodist Church and to provide that it held its property in trust for itself only. *(St. Luke's, supra,* 121 Cal.App.4th at pp. 760-761.) After a trial, the trial court found that there was a trust interest in favor of the United Methodist Church and that the local church could not and did not unilaterally revoke that trust. The trial court also ordered injunctive relief in favor of plaintiffs, directing the local church to execute and record deeds to the local church property with trust language in favor of the United Methodist Church. *(Id.* at p. 761.)

St. Luke's reversed this judgment. Although *St. Luke's* found that substantial evidence supported the finding that a trust interest was created in favor of the United Methodist Church, the decision also concluded that the local church could and did revoke that trust. The *St. Luke 's* opinion asserts that interpreting section 9142, subdivision (c)(2) as authorizing a general church to create a trust in favor of itself with the trust property being the local church's property is "at odds

with other general principles of trust law," and states that "nothing in the statute appears to have been intended to create a new kind of trust which had not previously existed." *(St. Luke's, supra,* 121 Cal.App.4th at pp. 769, 770.) This, however, is dicta. The *St. Luke's* opinion found that the Book of Discipline of the United Methodist Church did not by itself create the trust. Instead, "the local church's articles of incorporation, and the presence of trust language on five of the nine deeds, demonstrated an intent to be bound by the rules of the Book of Discipline, i.e., an intent to hold the property in trust for the benefit of both the local church and the United Methodist Church. Thus if the trust in favor of the United Methodist Church was a trust `created by [section 9142, subdivision (c)(2)],' that trust could be amended or dissolved by amending the St. Luke's articles of incorporation to expressly state that St. Luke's would not be `affiliated with' or `subject ... to the . . . discipline ... of the United Methodist Church,' and that it would hold property 'intrust for the sole benefit of this Corporation.' " *(Id* at pp. 770-771.)

Even if it is true that a trust created pursuant to section 9142, subdivision (c)(2) is "at odds with other general principles of trust law," the Legislature has nonetheless authorized the creation of such trusts as part of the Nonprofit Religious Corporation Law. Section 9142, subdivision (d) expressly refers to the validity of such trusts when it refers to "[t]rusts created by paragraph (2) of subdivision (c)[.]" *St. Luke's,* moreover, is factually distinguishable from the case

at bench, in which the dispute about church property arose because of a division or "schism" of the Hope Church into two congregations (one of *which,* pursuant to the Book of Order, was subsequently declared to be the true church), rather than, as in *St. Luke's,* the attempt by a congregation to disaffiliate from, and to revoke its trust in favor of, that national church. We therefore find that *St. Luke's* does not govern this appeal'.

5. The Trial Court Properly Deferred to the Determination by PCUSA, Hanrni Presbytery, and the Hope Administrative Commission of Who Constituted the True Church of Hope Church

Defendants have raised an issue relating to the ability of Hope Church to secede from PCUSA. The judgment has determined that a trust on property of Hope Church was created in favor of PCUSA, and has also quieted title in the Hanmi Presbytery, art entity of PCUSA. We affirm this judgment. Therefore whether Hope Church can secede from PCUSA no longer has any importance to the disposition of the real property of Hope Church. It only has importance to the request for injunctive relief in the complaint, which sought such injunctive relief as might be necessary to assure control over the real property by the Hope Administrative Commission and Hanmi Presbytery. In that context we address defendants' argument that Hope church had the power to leave PCUSA and once it did so, PCUSA had no secular power over Hope Church.

Defendants rely on *Barker, supra, 115* Cal.

App.3d 599, which states: 'Under neutral principles of law if a local body affiliated with a national body holds title to property in its own name and later secedes, the national body has little basis to claim that such property is held in trust for it. (Evid, Code, § 662; Civ. Code, § 1105.) If a local organization secedes from one national entity and affiliates with another, *absent other factors* no claim can be laid to property owned by and held in the name of the local organization.' *(Barker, at p. 622; italics* added.) "Another factor" arose after *Barker was* decided: the legislature enacted section 9412, subdivision (c)(2), which authorized an express trust over assets of a religious corporation based on governing instruments of a superior religious body or general church of which that corporation is a member. Moreover, one of the four defendant local churches in *Barker* had incorporated *after a* Diocesan cannon declared that on dissolution of a local church, its property became distributable to the Diocese and specifically identified that local church as a subordinate body of a national body pursuant to provisions of the Corporations Code. Thus *Barker* found that this local church's assets were subject to an express trust in favor of the Diocese. *(Barker, at pp. 623-625.)*

There is an additional difference between the facts of *Barker* and those of the case at bench. None of the four churches in *Barker who sought to* disaffiliate with the national *church had* divided congregations in "schism," each of which schismatic groups claimed to be the true church. That division or "schism," by contrast,

did occur in the Hope Church, with Rev. Kim and some of his followers attempting to take control of the Hope Church and its assets, and other Hope Church members opposing those efforts. In this circumstance the question is not whether a local church can secede and disaffiliate from the national denomination. Instead the issue is how to resolve claims of competing portions of the church membership to be the true church and of possession and control of its assets. (See *Metropolitan Philip v. Steiger, supra,* 82 Cal.App.4th at p. 930-931.) Hope Church, by joining PCUSA, subjected itself to the jurisdiction of the national denomination and its constitution, the Book of Order. Book of Order G-8.0600 states: "The relationship to the [PCUSA] of *a* particular church can be severed only by constitutional action on the part of the presbytery. (G-11.0103i) If there is a schism within the membership of a particular church and the presbytery is unable to effect a reconciliation or a division into separate churches within the [PCUSA], the presbytery shall determine if one of the factions is entitled to the property because it is identified by the presbytery as the true church within the [PCUSA]. This determination does not depend upon which faction received the majority vote within the particular church at the time of the schism." The Hanmi Presbytery made this determination, to which the trial court was bound to defer.

In a hierarchical church, individual churches are organized *as a* body with other local churches and with a common ruling convocation or ecclesiastical

head, which has ultimate ecclesiastical authority over individual congregations and members. A local congregation affiliating with the national church is bound by the government, control, orders, and judgments of the national church. *(Concord Christian Center v. Open Bible Standard Churches, supra, 132* Cal.App.4th at p. 1409.) Civil courts can apply neutral principles of law to resolve disputes about ownership and control of church property, "unless this determination depends on the resolution of an ecclesiastical controversy over religious doctrine, practice or polity." *(Id.* at p. 1411, fn. omitted.) To the extent that interpretation or construction of the governing documents of a religious organization (church constitution, articles of incorporation, bylaws, or instruments of property ownership) "involves the resolution of a matter of ecclesiastical doctrine, polity or administration, the civil court must defer to the resolution of the issue by the 'authoritative ecclesiastical body.' [Citation.] [S]uch ecclesiastical matters include not only issues of religious doctrine per se, but also issues of membership, clergy credentials and discipline, and church polity and administration." *(Ibid.)* "[T]he identification of a religious body as the true church is an ecclesiastical issue." *(Korean United Presbyterian Church v. Presbytery of the Pacific, supra, 230* Cal.App.3d *at* p. *500.)*

"[T]he First and Fourteenth Amendments permit hierarchical religious organizations to establish their own rules and regulations for internal discipline and

government, and to create tribunals for adjudicating disputes over these matters. When this choice is exercised and ecclesiastical tribunals are created to decide disputes over the government and direction of subordinate bodies, the Constitution requires that civil courts accept their decisions as binding upon them." *(Serbian Eastern Orthodox Diocese v. Milivojevich (1976) 426 U.S. 696, 724-725.)*

The determination of which faction of Hope Church represented the true church was an issue of religious doctrine, membership, and church polity and administration. The trial court therefore was required to, and properly did, defer to the determination of this issue by PCUSA, through the Hanmi Presbytery and its Hope Administrative Commission. We find no error in that ruling by the trial court

6. Defendants Have Not Shown That Proceedings of the Hope Administrative Commission Denied Due Process

Defendants claim that they were denied due process under PCUSA rules, because PCUSA did not notify them that it intended to convene an administrative commission, and Hope Church was only informed of that action after it happened and after Hope Church had disaffiliated from PCUSA.

Defendants cite Book of Order G-9.0505b as the basis for their claim of lack of notice. G-9.0505b states: "(l) When an administrative commission has been appointed to settle differences within a church, a governing body, or an organization of the church,

it shall, before making its final decision, afford to all persons to be affected by the decision fair notice and an opportunity to be heard on the matters at issue. (See G-9.0503a(4), a(6), G-9.0505b-d.) Fair notice shall consist of a short and plain statement of the matters at issue as identified by the commission and of the time and place for a hearing upon the matters at issue. The hearing shall include at least an opportunity for all persons in interest to have their positions on the matters at issue stated orally."

Nothing in the quoted section G-9.0505b requires notice of the intention to convene the administrative commission. Instead it requires that all persons to be affected by the decision receive notice and an opportunity to be heard. Defendants received that notice and opportunity to be heard before the Hope Administrative Commission's final determination. We find no merit to this claim.

Court of Appeal, Second Appellate District, Div. 3 - No. B191806

S167078

IN THE SUPREME COURT OF CALIFORNIA

En Banc

SYNOD OF SOUTHERN CALIFORNIA AND HAWAII et al.,
Plaintiffs and Respondents,
v.

KYTJNG STJH KIM et al., Defendants and Appellants.

In light of the decision in Episcopal Church Cases (2009) 45 Ca1.4th 467, Deputy review in this matter is dismissed.

SUPREME COURT
FILED

MAR 1 1 2009

Frederick K. Ohlrich Cl

Deputy

George
Chief Justice

Kennard
Associate Justice

Baxter
Associate Justice

Werdegar
Associate Justice

Chin
Associate Justice

Moreno
Associate Justice

Corrigan
Associate Justice